

U.S. DISTRICT COURT
DISTRICT OF IDAHO

FILED AT _____ M

OCT 31 2001

By _____ Deputy

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

In Re:

ASA WILLET "BILL" ROARK

Debtors

Case No. 01 - 02073

ORDER CONFIRMING CHAPTER 13 PLAN
AND GRANTING RELATED MOTIONS

IT HAVING BEEN DETERMINED AFTER NOTICE AND A HEARING THAT:

1. The Chapter 13 Plan and Related Motions comply with the provisions of this chapter and with other applicable provisions of this title;
2. The Chapter 13 Plan and Related Motions have been proposed in good faith and not by any means forbidden by law;
3. The value, as of the effective date of the Chapter 13 Plan and Related Motions, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under 11 USC Chapter 7 on such date;
4. With respect to each allowed secured claim provided for by the plan --
 - a. the holder of such claim has accepted the plan; OR

ORDER CONFIRMING CHAPTER 13 PLAN
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b. the plan provides that (i) the holder of such claim retain the lien securing such claim; and (ii) the value, as of the effective date of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed secured value of such claim.

5. The Debtor will be able to make all payments under the plan, and to comply with the plan.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

A. The Chapter 13 Plan and Related Motions plan is confirmed, incorporating the following modifications: The Debtor will pay to the Trustee for a term not exceeding 44 months the sum of \$105.00 monthly. The Trustee will hold \$10.00 per month for 30 months for a reserve for post confirmation attorneys fees. This will be a total sum of \$4,620.00 for the 44 month period

The Internal Revenue Service holds a non-dischargeable pre-petition priority tax claim in the amount of \$3,350.66. The I.R.S. will receive equal installments over the length of the Plan from the Trustee in the amount of \$72.84 per month.

The remaining balance of \$500.00 for Debtor's attorney's fees shall be paid by the Trustee to attorney J. Bart Green, Green & Green Law Firm, 929 E. 1st Street, Suite 2, Meridian, Idaho 83642 out of the plan payments during the first six months of the Plan.

The Trustee shall be paid a commission of 10 percent of all payments made through the Plan, and any remaining amount shall be paid to the general unsecured creditors

The Debtor will surrender any and all legal and equitable interest that he has in the rental house and real property commonly known as 6742 Gary Lane, Boise, Idaho 83703 to the Trustee as a part of the bankruptcy estate for the benefit of creditors. The Debtor will surrender any and all legal and equitable interest that he has in the undeveloped lot that he owns in Cascade, Idaho, as identified in his schedules and plan, and more particularly described as:

Lot No. 11 of Block 4, Crown Point Subdivision No. 7 on file and of record in the Office of Valley County Recorder – Cascade, Idaho

by virtue of the Warranty Deed recorded in the real property records of Valley County as Instrument No. 207306 recorded on or about October 7, 1994.

There is a sale pending on the property located at 6742 Gary Lane, Boise, Idaho 83703. The proceeds of the sale should be sufficient to result in a payoff of the secured claim of Countrywide Home Loans, loan # 8491591-7, in the approximate amount of \$24,000.00 in full.

The proceeds from the sale of the rental house located on Gary Lane should also be sufficient to result in a payoff of the secured claim of St. Lukes Regional Medical Center, which holds a second deed of trust on the rental home in the approximate amount of \$24,000.00.

The proceeds from the sale of the rental house on Gary Lane should also result in a payoff of the secured claim of Ada County Treasurer in the amount of \$3,038.68, with interest thereon, pursuant to Idaho Code § 63-1001, at the rate of 12% per annum.

Based on tax assessed value, Ada County estimates the value of the rental house on Gary Lane at \$58,400.00. The sale of the Gary Lane property should also result in some equity in the property for the benefit of the general unsecured creditors.

Debtor also owns an undeveloped lot in Cascade, Idaho, which he is surrendering to the Trustee as property of the bankruptcy estate to be sold. The eventual sale of the undeveloped lot in Cascade, Idaho should also result in equity for the benefit of the general unsecured creditors in the range of between \$10,000.00 and \$40,000.00 depending on the price that the Trustee is ultimately able to obtain for the lot.

Mr. Roark's wife, Dori Roark, passed away due to complications from breast cancer on

January 10, 2001. Because Mrs. Roark's name is on the real property, the real estate agent has stated that the sale cannot be completed unless or until an informal intestate probate is conducted and a Personal Representative's deed is used to convey the interest of Mrs. Roark's estate to Mr. Roark. This is necessary in order for title insurance to be issued on the sale. Debtor and his counsel will undertake, as a part of the plan in this case, to do an informal probate of Mrs. Roark's estate. It is anticipated that Mr. Roark will be appointed as the personal representative or administrator. It is also anticipated that the real property in Gary Lane and in McCall will be deeded over from Mrs. Roark's estate to Mr. Roark. Mr. Roark will then surrender or quitclaim the property, or do whatever else is necessary to cooperate with Trustee Rakozy so that the property can be sold with the proceeds becoming property of the bankruptcy estate for the benefit of creditors.

B. The value of collateral securing debts due holders of secured claims is fixed at the *Allowed Secured Values* as stated herein to be paid:

CREDITOR	DESCRIPTION OF COLLATERAL	ALLOWED SECURED VALUE	RATE OF INTEREST	PROJECTED TOTAL PAYMENTS
N/A				

C. Pursuant to the motion of debtor contained in debtor's plan and 11 U.S.C. § 552(f)(1)(A), the judicial liens of the following creditors are avoided.

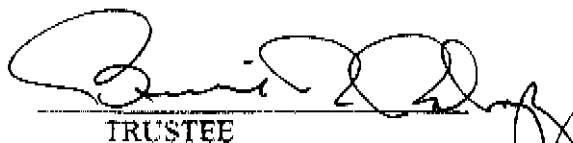
CREDITOR	DESCRIPTION OF JUDGMENT LIEN	COUNTY & INSTRUMENT NUMBER
N/A		

The court finds that the lien sought to be avoided impairs an exemption to which the debtor is entitled as a matter of law.

D. Pursuant to the motion of Debtor contained in Debtor's plan and 11 U.S.C. § 552(f)(1)(B), the non-possessory, non-purchase money security interests of the following creditors are avoided.

CREDITOR	DESCRIPTION OF EXEMPT PROPERTY
N/A	

The Court finds that the lien sought to be avoided is a non-possessory, non-purchase money security interest in debtor's household furnishings and goods as described in 11 U.S.C. § 552(f) and that such lien impairs an exemption to which debtor would have been entitled as a matter of law.


TRUSTEE

10/25/01
Date

DATED: 10/30/2001


U S BANKRUPTCY JUDGE

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Total notices mailed: 3

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Aty Green, J Bart, III 929 E 1st St #2, Meridian, ID 83642
Trustee Rakozy, Bernie R POB 1738, Boise, ID 83701